

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DAVID ALLEN MOORE,

Petitioner,

v.

JILL McGUIRE,

Respondent.

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No. 4:09CV1342 RWS
(TIA)

MEMORANDUM AND ORDER

This matter is before the Court on Petitioner's Motion for Appointment of Counsel. The cause was referred to the undersigned pursuant to 28 U.S.C. § 636(b).

On August 19, 2009, Petitioner filed a petition under 28 U.S.C. § 2254 for a writ of habeas corpus. He filed a Petition for Appointment of Counsel on September 25, 2009, alleging that he is unable to afford counsel; the issues in the case are complex; and he has limited access to the law library and no prior litigation experience. Thus, he requests that the court appoint him an attorney represent him in these proceedings.

"[T]here is neither a constitutional nor statutory right to counsel in habeas proceedings" McCall v. Benson, 114 F.3d 754, 756 (8th Cir. 1997). In order to determine whether appointment of counsel is appropriate, the court must consider "the factual and legal complexity of the case, and the petitioner's ability both to investigate and to articulate his claims without court appointed counsel." Id. (citations omitted). In the instant case, Petitioner raises only four grounds for habeas relief, and they do not appear to be factually or legally complex. Indeed, all four grounds pertain to Petitioner's "chronic offender status" and the resulting enhanced sentence. Further, Petitioner has thus far been able to articulate his claims in a clear, concise manner, despite his allegations of an

inability to properly plead and defend his case. Because petitioner has demonstrated an ability to adequately present his claims without an attorney, his motion for appointment of counsel will be denied at this time.

Accordingly,

IT IS HEREBY ORDERED that petitioner's Petition for Appointment of Counsel [Doc. #6] is **DENIED**. If the Court later determines that counsel is necessary, the appropriate order will be issued.

/s/ Terry I. Adelman
UNITED STATES MAGISTRATE JUDGE

Dated this 8th day of December, 2009.